THE HON'BLE SMT JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE G. CHANDRAIAH

W.P. No.12556 of 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

Petitioner seeks a *Writ* of *Certiorari* to call for the records in O.A. No.8360 of 2000 on the file of A.P. Administrative Tribunal and to declare the order dated 23-10-2003 passed in the said O.A. as illegal, irregular, unjust and contrary to the principles of natural justice.

The petitioner herein is the applicant before the learned Tribunal.

Originally, the applicant filed O.A. No.8360 of 2000 questioning the order dated 20-11-2000 issued by the Deputy Inspector General of Registration and Stamps whereuder the Assistant District Registrar, Warangal has been appointed as enquiry officer under Rule 20 of The Andhra Pradesh Civil Services (Classification, Control and Appeal) Rules, 1991 (for short 'the Rules') to enquire into the charges framed against him. The main contention of the applicant before the learned Tribunal was that initially he was issued a charge memo with a *mala fide* intention to circumvent the orders of the learned Tribunal passed in O.A. No.7821 of 1999, which was filed by him seeking a direction to the respondents therein to consider his case for promotion to the post of Sub-Registrar Grade-I and this charge memo was issued

nearly 18 months after the said incident and that the enquiry shall be held separately in respect of his case. Therefore, the order impugned therein is liable to be set aside. After appreciating the contentions raised on either side, the learned Tribunal closed the application directing the applicant to cooperate with the departmental officers to ensure early conclusion of the disciplinary proceedings. Having aggrieved by the same, the instant petition has been filed seeking declaration that the order under impugned is contrary to law.

Heard the learned counsel on either side and perused the material on record.

Learned counsel for the petitioner contends that initially the applicant was issued a charge memo with a *mala fide* intention to circumvent the orders of the learned Tribunal passed in O.A. No.7821 of 1999, which was filed by him seeking a direction to the respondents therein to consider his case for promotion to the post of Sub-Registrar Grade-I and this charge memo was issued 18 months after the said incident and that the enquiry shall be held separately in respect of his case.

Learned Government Pleader contends that after appreciating the case of the petitioner, the learned Tribunal has rightly closed the application. Therefore, this petition is liable to be dismissed.

As could be seen from the material on record, there is no dispute with regard to the issuance of a charge memo alleging that the applicant was found to have not declared personal chase of

Rs.71.50 when A.C.B. officials inspected the office of the applicant on 26-02-1999 and he failed to detect the staff members, Sri K. Jagan and Sri
G. Purushotham, who have kept excess amount of Rs.60-00 and 40-00 respectively than the declared amount of personal cash, for which, he offered his explanation and pending the same, the 1st respondent issued proceedings dated
20-11-2000 appointing an enquiry officer under Rule 20(2) of the Rules.

At this stage, it is pertinent to note the provisions of Rule 20 (2) of the Rules, which reveals that whenever the disciplinary authority is of the opinion that there are grounds for inquiring into the truth of any imputation of misconduct or misbehaviour against a Government servant, it may itself inquiry into, or appoint under this rule or under the provisions of the Public Servants (Inquiries) Act, 1850, as the case may be, an authority to inquire into the truth thereof. Further, Rule 20(5)(a) also categorically reveals that on receipt of the written statement of defence, the disciplinary authority may itself inquire into such of the articles of charge as are not admitted, or, if it considers it necessary to do, appoint under sub-rule (2), an inquiring authority for the purpose, and where all the articles of charge have been admitted by the Government servant in his written statement of defence,
the disciplinary authority shall record its findings on each charge after taking such evidence as it may think fit and shall act in the manner laid down in Rule 21.

The material on record makes it clear that on receipt of the

explanation submitted by the applicant, having dissatisfied with the same, the 1st respondent has been resorted to invoke the provisions of the Rules in order to appoint the enquiry officer in question. At this stage, it is the case of the applicant that without considering his explanation, the appointment of the enquiry officer itself is illegal. But, the said contention, which is nothing but a futile exercise, holds no water in the light of the provisions of the Rules in question. At the same time, nothing can be gathered from the Rules that without initiating an enquiry by appointing an enquiry officer, on the mere explanation submitted by the applicant; the charge memo can be concluded.

In the above facts and circumstances of the case coupled with the provisions of the Rules in question,
we have no hesitation to hold that the proceedings impugned in the O.A. appointing the enquiry officer, are in conformity with the C.C.A Rules and as such, they do not suffer from any arbitrariness or illegality and thereby, the approach of the applicant before this Court is a premature one at this stage of the proceedings. Therefore, the learned Tribunal is justified in passing the order impugned herein. Hence, we see no merits in this writ petition and the same is liable to be dismissed.

In the result, the Writ Petition is dismissed but under the circumstances no order as to costs.

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Justice T. Meena Kumari

Justice G. Chandraiah

Dated: 18.06.2007
LSK